

NOVEMBER 2024

**ENGAGING WITH THE UPDATE OF
IRELAND'S NATIONAL ENERGY
AND CLIMATE PLAN**

**REFLECTIONS FROM A CIVIL
SOCIETY PERSPECTIVE**

**Alison Hough, Catherine
Devitt, Caitlin McIlhennon,
Paul Price and Ciara
Brennan**

1. Introduction

The NECP update was a critical moment for Ireland to align its climate policies with both national and EU goals and to strengthen its commitment to a just transition. As Ireland faces increasing pressure to meet its 2030 climate and energy targets, the NECP update provided a unique opportunity to address gaps in existing policies, integrate new climate commitments, and support vulnerable communities most affected by the climate and energy transition. This NECP update also served as a defining moment in Irish and EU climate and energy policy, opening a strategic path to reduce fossil fuel dependence and achieve policy coherence. The update was also essential for Ireland to demonstrate leadership within the EU by creating a comprehensive and forward-looking plan that not only complies with EU regulations but also sets a high standard in transparency, public engagement, and environmental justice. Ireland's initial NECP (2018/2019) had significant gaps and delays, and the update process in 2023/2024 offered a key opportunity to avoid repeating these mistakes.

Unfortunately, the updated NECP submitted by Ireland to the European Commission in July 2024 did not set out a clear path to climate neutrality and a just transition. Ireland's updated NECP did not meet several mandatory requirements of Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action (herein referred to as the Governance Regulation) and failed to align with additional EU directives, such as Regulation (EU) 2018/842 (the Effort Sharing Regulation) and the Strategic Environmental Assessment Directive. **A comprehensive assessment of the weaknesses in the substantive content of the NECP is set out in [this detailed analysis](#).** However, in addition to very significant issues with the actual content of the NECP, the process of its update unveiled not only non-compliance with public participation requirements, but also exposed the challenges that face civil society when trying to engage with the production of a highly complex plan spanning a broad array of policy areas.

This document presents a short evaluation that reflects on some of the key themes and issues that emerged as a coalition of civil society organisations, including Environmental Justice Network Ireland (EJNI), attempted to engage in the NECP update process. The views set out in this document reflect only the opinions of the authors. These reflections on a national level case study are important because they shed light on some of the weaknesses in how the existing EU level plan-making processes function in practice. Given the potential revision of the European Climate Law and the Governance Regulation, this is important evidence that should be considered as these processes are refined.

2. Setting the scene: public participation in the update of Ireland's NECP

2.1 Timeline of deadlines and submissions

By 30 June 2023, Member States were due to submit their draft updated NECPs in line with Article 14 of the Governance Regulation. The Commission published detailed [guidance](#) to Member States on the process and scope of this update. On 18 December 2023, the Commission published its [EU-wide assessment](#) of the draft updated NECPs, together with individual assessments and country-specific recommendations for the 21 Member States that submitted their draft plans in time. Five Member States – including Ireland – submitted their draft updated NECPs at a later stage. Ireland submitted its draft updated NECP in December 2023, 5 months later than the deadline. The Commission's [assessment and recommendations](#) for Ireland were published on 23 February 2024. Member States were due to submit their final updated NECPs, taking account of the Commission's assessment and recommendations, by 30 June 2024. Ireland submitted its final updated NECP in July 2024.

2.2 Opportunities for public participation in the update of Ireland's NECP

The absence of any public consultation on the draft NECP was raised as a concern early in the process of updating Ireland's NECP in June 2023 in a [letter to Minister Eamon Ryan](#) co-signed by Environmental

Justice Network Ireland and the Stop Climate Chaos coalition. This letter was accompanied by a [detailed briefing](#) setting out the public participation requirements for the update process. Despite these efforts, no dedicated public consultations were conducted by the Government of Ireland's Department of the Environment, Climate and Communications (DECC) during the preparation of the initial draft NECP before its delayed submission to the European Commission in December 2023. As a result, early public involvement before decisions were taken and throughout the decision-making process was not ensured before the draft was submitted. This gap was flagged by the European Commission in their feedback to Ireland on the draft NECP in February 2024.

Two public consultations took place in 2024, both were inadequate as detailed below.

- The **first consultation on Ireland's draft NECP** took place over a four-week period between 8 February and 7 March 2024. This consultation was on a draft NECP (already submitted late to the Commission in December 2023) based on an 'with existing measures' (WEM) scenario, only. This scenario reflected policies/measures that were in place by the end of 2021. The modelling on the WEM projections was not included in the initial draft, nor was scenario or agriculture projected data included. Absent were any and all scenarios used in preparation of the draft NECP, including: WEM and WAM projected annual emissions and energy pathways up to at least 2040; data showing the annual values for scenario pathway of pathways incorporating the resulting mitigation due to the actions in the Climate Action Plan 2024; or a text description of all key cost, population or other assumptions underpinning each NECP scenario. This information was requested by EJNI on 7 February under the Freedom of Information Act 2014. A non-satisfactory response to this Fol request was received at 9.22pm on the evening of the 6 March 2024, the day before the consultation on the draft NECP was due to close. This response included WEM energy data to 2040, only. In addition to leaving little or no time for EJNI and collaborating partners to analyse this data, the information was not made publicly available as part of the consultation process. This prevented public or expert assessment of the draft plan. Given these issues (and the fact that the Commission had also published its assessment of the draft NECP on the 23rd February 2024), a formal request was made on 26 February 2024 to extend the consultation period in a [letter to DECC and Minister Eamon Ryan](#). This letter was co-signed by Environmental Justice Network Ireland, the Stop Climate Chaos coalition, the Environmental Pillar, and Community Law and Mediation. The request for an extension to the consultation period was not granted by the Department. EJNI and other stakeholders therefore had no option but to attempt to engage via the consultation exercise in line with the existing deadline despite the obvious need for an extension to the consultation process.

As part of the first consultation, and using a survey form provided, respondents were invited to submit tick-box answers (such as Yes/No and Agree/Disagree) to questions about their awareness of the NECP prior to the consultation, the importance of the NECP, sectoral responsibility for achieving the NECP, and whether the draft NECP sufficiently addressed listed key areas. No questions were asked on scenario, sectoral or policy options. Respondents were then invited to submit open comments on any additional feedback they'd like to provide (restricted to a maximum 300 words), or anything else they'd like to see included in the final NECP (restricted to a maximum of 150 words). The (only) consultation material provided was the draft NECP document, which itself contained some errors e.g. including citing Ireland's outdated ESR requirements. No plain English/non-expert summary or explanation of the NECP, including its aims, objectives, and the update process, was provided. Explanatory webinars/videos were not offered and no other language versions or accessibility enabled versions for those with visual or other impairments were provided. A Strategic Environmental Assessment Report did not accompany the draft Plan. No real attempt was made to publicise the consultation (beyond an announcement on social media), or to make the document legible to the public concerned or to create the necessary conditions that would enable participation and engagement. Unsurprisingly, there was a low level of engagement, with only 38 submissions and very little input from members of the public. The consultation

responses were never published, and an opaque [summary of consultation responses](#) was made available later. EJNI submitted a [response to the consultation](#) highlighting the serious flaws in both the process of updating the plan and the substantive content of the plan itself. Our analysis was also endorsed by other organisations in their response to the draft plan, e.g. [An Taisce](#) – the National Trust for Ireland.

- The **second consultation on the final draft NECP** took place again over a four-week period between 30 May and 27 June 2024, ending just three days before Ireland was due to submit the final updated NECP to the European Commission. The Department held an information webinar on 20th June – this was advertised on the Department website and was accessible using Microsoft Teams. The webinar was 1.5 hours long and was attended by circa 100 attendees. Anecdotal evidence, and experience of EJNI consultants who attended the webinar indicated technical issues with accessing the webinar. There was a facility for text Q&A, but attendees reported that this was switched off mid-way through the webinar. In our view, the webinar consisted of highly technical presentations from civil servants that appeared to be based on the national level Climate Action Plan 2024 (CAP2024) and not the updated NECP. CAP2024 was referenced throughout many of the presentations and seemed to be viewed as interchangeable with the NECP, as was the view that the NECP was merely a reporting of existing measures, and not a strategic climate planning tool. Opportunities for engagement were highly restricted: verbal questions were not permitted, only around six out of one hundred attendees were given the chance to submit questions via text, and there was no option for clarification or follow-up questions. Several of the government experts left the webinar before any questions could be asked.
- As part of the second consultation, and using a survey form provided, respondents were asked to give tick-box answers to questions on awareness of the NECP prior to the consultation, and whether the NECP adequately addressed key areas. Respondents were asked for open comments on whether the NECP was ‘practical and realistic’, which targets were ‘more important’, ‘what measures / topics should be identified for acceleration to 2030?’, ‘what more could people/industry be doing to support Government...’, and if there was ‘anything else you would like the Department to consider when undertaking future reviews of the NECP’. No questions were raised regarding the Five Dimensions of the Energy Union, or any scenario, sectoral, or policy-specific issues.

Both first and second consultations were advertised on the DECC website. The consultation document on the final draft outlined that the ‘final NECP reflects the feedback received during the first public consultation’ and that the Department has also considered the recommendations from the European Commission on the earlier draft. A [summary of feedback](#) from the first consultation was made available on the Department website. However, it was not made clear or explicit in an accessible manner where and how this feedback and recommendations were addressed or incorporated into the final draft NECP. It is worth noting that the Department acknowledged on their website and in the final NECP that ‘the NECP does not introduce new policy’, and that ‘the approach to the NECP has been to utilise and build on the existing and extensive policy specific consultations and other consultative process’. However, it does not provide details on how exactly it considered the public’s views gathered from these prior consultations, nor how these individual consultations contributed to the required integrated focus of the NECP. These concerns were also flagged by the European Commission in their feedback and recommendations on the initial draft. This lack of clarity further complicates determining how the feedback from the Commission, stakeholders, and the public was incorporated into the final NECP and how the recommendations were addressed.

The public consultation surveys, a summary of responses on the first consultation, the draft NECP (submitted to the Commission in December 2023) and the final NECP (submitted in July 2024) were made available on a [webpage](#) on the Department of the Environment, Climate and Communications website. To find this webpage, it is necessary to use an external search engine (such as Google), as opposed to there being a direct accessible link on the Department website.

The Department acknowledged in the final submitted NECP that “A second consultation report, along with a Strategic Environmental Assessment report, will be published after the submission of the final NECP to the European Commission and will contain more detail about how the consultation process influenced the final plan and detail about the specific details raised by respondents. Although not all issues could be adequately addressed in the final document, [the Department] is committed to ensuring that the feedback received will be considered and actioned by the relevant Departments and teams where appropriate”. As of November 2024, this information has not been made publicly available.

There have not been any Multilevel Climate and Energy Dialogues on the updated NECP. Ireland’s draft updated NECP and final updated NECP do not provide explicit reference to the development and delivery of specific Dialogues relevant to the NECP. Instead, reference is made to past and existing initiatives, such as the National Dialogue on Climate Action and Climate Conversations. However, the updated NECP fails to make clear the fact that these processes did not address the NECP or its themes/areas/policies, and feedback from the National Dialogues did not substantially inform the update of the NECP. In addition, there was little public indication of any transboundary consultation with authorities in Northern Ireland.

3. Key themes emerging from the NECP update process

3.1 Confusion and ‘consultation fatigue’ caused by lack of alignment and sequencing between EU and national planning processes

The process of updating Ireland’s NECP revealed significant issues in the alignment and sequencing between EU legal requirements and national climate planning processes. It appeared that national planning took precedence, sidelining the EU’s coordinated climate objectives. This approach reduced the NECP update and progress reporting to an administrative task rather than an opportunity for meaningful policy-making and strategic planning. There also appeared to be a lack of understanding about its distinct role and importance as a strategic policy making framework. Consequently, public participation was inherently flawed, as the NECP update largely consisted of pre-existing policies – many of which had already undergone consultation – thus failing to engage the public on the plan as a whole.

The stark contrast between the design of, and subsequent public and expert engagement with the process of developing Ireland’s 2024 national CAP and the approach to the NECP illustrates this issue clearly.

- According to the NECP consultation [findings report](#) published by DECC, “During the month-long consultation period, submissions were received from 37 organisations / individuals, either directly by email or through an online feedback form. Respondents included the agriculture, energy, environmental, NGO, renewable energy, trade and transport sectors, as well as individuals. These were primarily from sectoral organisations, as well as from individuals. Of the submissions received, one organisation submitted three separate responses (the Environmental Justice Network Ireland).”

A wide-ranging selection of responses was received, with 10 key themes emerging, which are summarised in Section 3 of this report. Among the topics that recurred most, or on which the most detailed submissions were received, were energy, the approach taken to developing the NECP, the quality and timing of consultation, the need for a “just transition” approach to the plan and its implementation, and climate change.”

- In comparison, the [2024 consultation for Ireland’s National Climate Action Plan](#) was open for submissions for a period of 6 weeks, with the closing date being 5th April 2024. A total of 98 submissions were received as part of the Public Consultation exercise after a comprehensive Call for Expert Evidence for the preparation of Climate Action Plan 2024.

Speaking on behalf of EJNI, Alison Hough BL raised the marked difference in approach to the two plans in an evidence session on the NECP held by the [Joint Committee on Environment and Climate Action](#):

"There seems to have been a lack of seriousness, if that is the best way to put it, in the approach to the NECP as opposed to the 2024 climate action plan. It seems like all of the energy went into that document. They are not the same thing. One is not interchangeable with the other. NECPs cover a very different range of dimensions to the energy and climate union, Ireland's place within that union and how Ireland is to do its part, as a member state, to help the European Union face the climate challenge. Those dimensions are not captured within the 2024 climate action plan. It is very important to remember that no matter how well we prepare our climate action plan under the domestic legislation, it is not a substitute. I do not think it has been explored sufficiently but, as things stand, two very heavyweight plans were produced in a short period of time, and one was done better than the other."

It is important to also note that there was a cross-over in the timelines for consultation responses for both Ireland's National Climate Action Plans and Ireland's NECP. As will be discussed below, there is already a lack of NGO capacity to engage meaningfully in public consultation around complex climate plans and policies and the concurrent running of consultations exacerbated this issue and added to the perception that the NECP update was a 'box-ticking' exercise. [Official scrutiny](#) of the NECP did not include robust interrogation of the weaknesses in the plan highlighted by civil society, despite a [comprehensive account](#) of the weaknesses in the content and process provided by EJNI and civil society partners at an [evidence session](#) to the Oireachtas Joint Committee on Environment and Climate Action on 14th May 2024.

3.2 Confusion about the level of consultation required on EU plans when components have already been consulted on via other national processes

A related issue is the recurrent idea that because elements of the NECP were drawn from other plans and policies which had been consulted on before, there was no need to revisit these elements via new extensive consultation. This approach to the NECP update is set out explicitly by DECC in its [consultation strategy](#):

"As the NECP does not introduce new policy the approach to the NECP has been to utilise and build on the existing and extensive policy specific consultations and other consultative process, such as the National Dialogue on Climate Action, that have been ongoing since the first NECP (2019). These consultations have been supplemented by two four-week consultations and a digital event. This is also part of the wider consultation strategy that has sought to engage other Member States and the UK.

We have also sought to build on the first consultation by addressing as many of the points raised during feedback as possible and within the limitations of the NECP document. As the NECP is using existing policies and initiatives, feedback relating to distinct policy areas will be formally fed back to those teams or Departments to review and action as appropriate through the domestic policy cycle. The updated material in the revised draft will address many of the points raised around the incomplete nature of the first draft. We are also planning a digital event during the second consultation that will provide further context to the plan and discuss in more detail the content and targets.

Where comments or observations received during the second consultation cannot be actioned through the NECP process, they will be notified to relevant teams or Departments for review and to be actioned, where possible, through the national policy cycle."

This approach reveals an institutional view of the NECP as a reporting exercise as opposed to a planning exercise. It demonstrates that Ireland's NECP has been a missed opportunity for the Irish Government to engage in high level strategic planning of its role in the EU and Global climate transition and suggests that the NECP is merely a collation of existing policy. This approach also fails to meet the SEA Directive's requirements for proper consultation. Although consultations at a lower level of a hierarchy can fulfil consultation obligations at a higher level under the SEA Directive, this logic does not hold in reverse. Assessing the impact of a comprehensive, multi-dimensional plan like the NECP cannot be effectively

achieved by consulting on each of its individual elements in isolation. This would be analogous to “project splitting” in environmental impact assessment parlance.

3.3 Repeated failure to meet EU deadlines has had knock on effects for the assessment of consistency between medium and long-term plans.

Submissions of Ireland’s EU climate plans have been consistently late, piecemeal and poorly synchronised. Ireland’s updated Long-term Strategy on Greenhouse Gas Emissions Reduction was approved by the Government on June 26, 2024. The strategy was subsequently published on 23 July, 2024 over 3 years after the EU deadline. The second consultation on the final updated NECP closed on 27 June, 2024 – just one day after the nLTS had been approved by Government. No time was made available to the public to review the level of consistency between both documents. It is noted in the nLTS that it will “build on the targets, policies, measures and actions we [the Government] have already committed to in the period to 2030 as set out in successive annual national Climate Action Plans and our EU National Energy and Climate Plans.” The delayed publication of the national Long-Term Strategy meant that it was not possible for analysis to be undertaken to ensure that the two plans were consistent.

The nLTS and the NECP align insofar as they both rely on Ireland’s 2024 Climate Action Plan. However, this does not mean that as combined emissions reduction strategies, they are fully consistent with Ireland’s 2030 and long-term climate commitments. EJNI’s [assessment of the updated NECP](#) concluded that because of its reliance on the Climate Action Plan 2024, it fails to comply with national carbon budgets and the EU’s Annual Emission Allocation totals. Basing the final NECP on the CAP24 goes nowhere to ensuring near-term and consistent reductions in line with national and EU 2030 targets, and significantly increases the likelihood of much more erroneous, costly, and disruptive reductions post-2030. Given that both documents do not align with the requirements of the Governance Regulation and domestic law, it is impossible to assess the extent to which they are consistent with each other within the context of Ireland’s legal requirements.

3.4 Lack of public and stakeholder capacity meant that it was not possible for citizens to engage meaningfully in the process of updating Ireland’s NECP

In Ireland, only a limited number of civil society organisations are actively and comprehensively engaging with EU climate policy. Various factors contribute to this, but many organisations face constraints in expertise, and resources that limit their ability to engage meaningfully. These resources are further stretched by the short timeframes allocated for public consultation, the, at times, complexity of climate policy documents, and certain political processes – such as appearing before Oireachtas Committees, submitting parliamentary questions, and filing freedom of information requests – are often challenging to access and engage with effectively. The lack of plain English summaries alongside the draft and final NECPs further exacerbates the challenges posed by limited NGO capacity.

Contrary to Article 10 of the Governance Regulation and Article 4 and 5 of the SEA Directive, the general public and relevant stakeholders were not sufficiently informed, and provided with sufficient information, to be able to engage fully and meaningfully with the draft updated NECP. The timeframe of four weeks for participation with a draft plan of 450 pages, and its accompanying SEA-R of 436 pages can hardly be considered sufficient time for experts to engage with the plan, never mind members of the public or community groups interested in climate issues. The updated NECP itself is excessively vague and does not make clear its policies and related impacts on emissions across the various sectors. This vagueness was a feature throughout the NECP. For example, speaking on behalf of EJNI, Dr Orla Kelleher BL highlighted the ‘intergenerational injustice’ of vague and speculative reliance on carbon dioxide removal technologies, in an evidence session on the NECP held by the Joint Committee on Environment and Climate Action:

“Within the current draft, there is mention of developing a strategy about negative emissions technologies in carbon capture and storage. However, it does not give any sort of timeline as to

when that is going to be developed and when we can expect it. That makes the process of engaging very difficult because we do not have a sense of how much we will rely on these technologies.

The absence of adequate information in the updated NECP has made it difficult for a 'reasonable and interested member of the public' to assess whether the NECP 'is considered to be effective and appropriate' (to use the language of the Supreme Court in [Climate Case Ireland](#)) to achieve Ireland's 2030 Effort Sharing Regulation (ESR) target and its 2030 Land Use, Land Use Change, and Forestry (LULUCF) target. Though it is worth noting that the [EPA's 2023](#) and [2024 projections](#) both raised the alarm that further measures would be required, in addition to the WAM scenario, to meet Ireland's EU climate targets. As put in the 2024 EPA Projections report, "Ireland will not meet its non-ETS EU targets of a 42 per cent emissions reduction by 2030 in WAM even with both the ETS and LULUCF flexibilities." Additionally, the updated NECP makes reference to 'examin[ing] the feasibility of the utilisation of Carbon Capture and Storage (CCS) in Ireland and to develop policy in the area'. However, it does not set out transparently the extent to which Ireland intends to rely on CCS to meet its existing targets.

In addition to vagueness and missing data in the actual document, supporting information was insufficient to enable the public to scrutinize the document. The Strategic Environmental Assessment Report (SEA Report) accompanying the final draft updated NECP was inadequate, did not clearly outline impacts and failed to scope out impacts of alternative pathways to meeting the targets, actual alternative pathways, or outline reasons for choosing certain pathways where alternatives were proposed.

This experience speaks to a wider misalignment between the imperative to undertake public consultation on crucial EU climate plans and policies (such as the NECP) as required by EU law (e.g. the Governance regulation) and international law (e.g. the Aarhus Convention) and the capacity of the public and experts to engage in analysis of often extremely complex and lengthy documents. The onus in this case is on Ireland's government to ensure that the public and expert stakeholders can engage with these processes, but in our opinion, this did not occur in the context of the NECP.

3.5 Missing data and a lack of transparency in the production of the plans prevented meaningful public and expert engagement

It is EJNI's opinion that DECC did not consider transparency a priority throughout the NECP revision process. We assembled a team with the capacity to engage in the NECP revision process and therefore EJNI was able to consistently and, in a persistent manner, identify and request information about gaps within the draft NECP prior to and during the consultation process. Despite these efforts, missing data prevented EJNI from undertaking a comprehensive assessment of the plan.

The first draft of the NECP was published on 8 December 2023 (five months after the required publication date). Important information was missing from the draft, including data and information on the scenarios that underpinned the NECP. This made it impossible to reasonably assess the plan. Key sectoral assumptions were not made available, and the related pathway time-series data was not made available in the digital form necessary for public participation and expert assessment. EJNI submitted an FOI request on the 7 of February 2023 requesting the missing data. Prior to a formal FOI response, DECC informed EJNI on the 8 February that:

- Updated modelling data was not available yet, the Department was awaiting the EPA/SEAI annual projections that will underpin the NECP, and that it is not due to finish until March 2024.
- Figures from March 2023 were used for the December 2023 draft NECP.

The first formal consultation on the draft NECP was also announced on the 8 February and ran for four weeks until 7 March 2024. The formal response to EJNI's FOI request was provided at 9.22pm on the 6th of March 2024 - the day before the consultation deadline. As highlighted above, the Minister for Environment, Climate and Communications denied our request to extend the consultation deadline -

despite the provision of the new data and the publication of the Commission's assessment during the consultation period.

In addition, no draft Strategic Environmental Assessment Report was provided during the initial consultation, which was in breach of requirements of EU law. For the final consultation in June 2024 an SEA Report was provided, but it was vague and unclear about most of the environmental impacts of the measures set out in the NECP. This was in large part due to the lack of detail in the draft updated NECP itself as to the exact policies and measures being employed to achieve targets, and in other cases, the Plan simply failed to outline the environmental impacts of the policies and measures included. The SEA Report did not present reasonable alternative pathways to achieving the climate targets discussed and failed to include reasons for the choice of the main pathway over alternatives posited in most cases. The draft SEA Report overall did not provide a clear picture of how or whether the draft updated NECP would enable Ireland to meet its Paris Agreement commitments, a key role of the NECP under the Governance Regulation. This meant that the public were not supported with good quality accessible information to engage fully with the update process.

3.6 Non-compliance with EU obligations undermined the rule of law and national and EU efforts to deliver a just transition

EJNI's analysis indicates that both the process of updating Ireland's NECP and the substantive content of the NECP have been undertaken in breach of a wide range of EU legal obligations.

To highlight key examples on content, Ireland's updated NECP has failed to comply with:

- Article 3(1) in conjunction with Annex I, Part 1, Section A, 3.1.3(iv) and Section B, 4.6(iv) of the Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action (herein referred to as the Governance Regulation), by not providing in its updated NECP, adequate information on the timelines and strategies for phasing out fossil fuel subsidies.
- Article 3(2) and Annex I of Governance Regulation, as it has failed to incorporate sufficient policies, measures, and projections in its updated NECP to achieve both its 2030 Effort Sharing Regulation (ESR) target and its 2030 Land Use, Land Use Change, and Forestry (LULUCF) target.
- Article 3(1) of the Governance Regulation, in conjunction with Article 3(2) and Annex I, Part 1, Section B, 5.2, by failing to adopt a comprehensive national strategy within the updated NECP to adequately address the socio-economic impacts of the climate and energy transition, while also promoting human rights and gender equality.
- Article 3(3)(d) of the Governance Regulation by failing to assess the number of households in energy poverty whilst "taking into account the necessary domestic energy services needed to ensure basic living standards within the relevant national context, considering existing social policies and other pertinent policies, along with the Commission's indicative guidance on relevant indicators, including geographical dispersion." It is also noteworthy that Ireland failed to set a national indicative objective to reduce energy poverty in the updated NECP, taking account of the Commission's Recommendation (EU) 2023/2407.
- The updated NECP also potentially breaches the EU Charter of Fundamental Rights in the context of climate mitigation and the energy transition, i.e. non-compliance with the climate and energy targets mentioned above affects the enjoyment of the right to life (Article 2 of the Charter) and the right to respect for private life (Article 7 of the Charter), as well as running contrary to the 'high level of environmental protection' guaranteed in Article 191(2) TFEU, Article 3(3) TEU and Article 37 of the Charter.

To highlight key examples on process, Ireland's updated NECP has failed to comply with:

- Article 10 of the Governance Regulation and with Article 7 of the Aarhus Convention by not providing early and effective opportunities, along with reasonable timeframes, for public participation in the preparation of the initial drafts of Ireland's NECP and the final draft before its submission to the European Commission in July 2024.
- Articles 7 and 8 of Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information, and Article 10 and Article 28 of the Governance Regulation by not providing an up-to-date and comprehensive analytical basis for the draft NECP. Ireland also failed to comply with Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment by not making available a Strategic Environmental Assessment (SEA) report on the initial draft of the Plan.
- Article 12(1), (2) and (5) of the Governance Regulation, by failing to demonstrate, or not engaging in, regional cooperation before filing the draft with the EU Commission, and for only limited regional engagement on the final NECP, which did not utilise existing mechanisms for cooperation with Northern Ireland and the UK established under the 1998 Belfast/Good Friday Agreement (such as the North-South Ministerial Council, the British-Irish Intergovernmental Council, and the British-Irish Council).
- Articles 7(1) and 7(2) of the SEA Directive by not notifying or engaging relevant authorities in neighbouring countries, especially Northern Ireland, for transboundary public consultations, despite the potential regional impacts of the NECP, depriving the public there of their fundamental right of public participation.
- Article 15(6) of the Governance Regulation by not ensuring alignment between the updated NECP and its national Long-term Strategy.
- The updated NECP also potentially breaches the EU Charter of Fundamental Rights in the context of access to information, i.e. non-compliance with the transparency requirements in the preparation of the updated NECP interferes with the right of access to documents in Article 42 of the Charter as well as with the right to access information set out in Articles 4-5 of the Aarhus Convention.

4. Conclusions

Ireland remains significantly off track in its progress towards achieving its 2030 climate and energy targets, and we consider that in its production of a weak NECP Ireland has missed a crucial opportunity for substantial course correction. The European Commission's assessment of the draft NECP identified major shortcomings and made significant recommendations. There has also been sustained and in-depth analysis and advocacy on obvious flaws in the content and process of the NECP from civil society. However, Ireland has failed to address these issues adequately and in full. Instead, it has taken an approach that appears more like a procedural tick-box exercise than a comprehensive, strategic plan to fulfil its climate commitments. The result is a plan that is in non-compliance with EU laws.

This level of non-compliance poses a significant risk to the Union's ability to meet its 2030 energy and climate targets, and the inability of member states, such as Ireland, to establish effective plans undermines the EU's collective capacity to fulfil its commitments under the Paris Agreement and the Aarhus Convention. There is now an important role for the EU Commission to address Ireland's (and other Member States') non-compliance with EU law regarding the production of the updated NECPs. Failure to address these issues promptly will continue to jeopardise the collective progress on achieving the EU's legally binding climate targets. There are also important lessons that can be learned from this in-depth national case study and these lessons are relevant for any revision of the Governance Regulation and the European Climate Law. These lessons speak to the need to ensure protection of Aarhus Convention rights to ensure citizen participation in the climate and energy transition, the simplification of EU planning processes, much greater alignment between EU and national planning processes, greater alignment between medium- and long-term planning, enhanced transparency and consistency between plans and more specific measures to deliver a just transition.